



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/918,972	07/31/2001	Kurt A. Dobbins	110197.163	3787

23483 7590 04/12/2007  
WILMER CUTLER PICKERING HALE AND DORR LLP  
60 STATE STREET  
BOSTON, MA 02109

EXAMINER
----------

DAVIS, ZACHARY A

ART UNIT	PAPER NUMBER
----------	--------------

2137

SHORTENED STATUTORY PERIOD OF RESPONSE	NOTIFICATION DATE	DELIVERY MODE
3 MONTHS	04/12/2007	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 04/12/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

teresa.carvalho@wilmerhale.com  
tina.dougal@wilmerhale.com  
michael.mathewson@wilmerhale.com

## Office Action Summary

**Application No.**

09/918,972

**Applicant(s)**

DOBBINS ET AL.

**Examiner**

Zachary A. Davis

**Art Unit**

2137

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3,4,9,10 and 26-39 is/are pending in the application.
- 4a) Of the above claim(s) 30-39 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,4,9,10 and 26-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 09 January 2007 has been entered.
2. By the above submission, Claims 1, 3, 4, 9, and 10 have been amended. Claims 2, 5-8, and 11-25 have been canceled. New Claims 26-39 have been added. Claims 1, 3, 4, 9, 10, and 26-39 are currently pending in the present application.

### ***Response to Arguments***

3. Applicant's arguments with respect to claims 1, 3, 4, 9, 10, and 26-39 have been considered but are moot in view of the new ground(s) of rejection.

***Election/Restrictions***

4. In the explanation below, reference is made to the following inventions:

II. Claims 1, 3, 4, 9, 10, and 26-29, directed to authorizing user access to a requested network resource, classified in class 726, subclass 4 (where this invention corresponds to invention II as set forth in the requirement for restriction mailed 03 March 2005 and elected in the response received 31 August 2005, further noting that class 713, subclass 201, where this invention was originally classified, has since been abolished).

VIII. Claims 30-39, directed to controlling user access to a network resource that includes storing a profile for the user, classified in class 726, subclass 6.

5. Newly submitted claims 30-39 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

Inventions II and VIII are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination VIII has separate utility such as calculating an amount of payment owed by a user. See MPEP § 806.05(d).

Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required

Art Unit: 2137

because the inventions have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 30-39 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

### ***Specification***

6. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The specification does not provide proper antecedent basis for the limitation added to independent Claim 1 that a communication channel is provided to satisfy a subscription request. Further, the specification does not provide proper antecedent basis for the limitation in new Claim 26 where a request specifies a time period for presenting a content resource. See below regarding the rejection under 35 U.S.C. 112, first paragraph, for failure to comply with the written description requirement.

***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

8. Claims 1, 3, 4, 9, 10, and 26-29 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Specifically, independent Claim 1 has been amended to include the limitation of “providing, for the user, at least one communication channel in the network with the determined at least one quality of service to satisfy the subscription request”. However, there does not appear to be sufficient written description for the claimed subject matter. In particular, the term “communication channel” does not seem to appear in the specification at all, and therefore there is no description of providing a communication channel to satisfy the subscription request.

Further, new Claim 26 includes the limitation of specifying “at least one time period for presenting the at least one content resource to the user”. There does not appear to be sufficient description of the claimed subject matter; specifically, the phrase “time period” or “period of time” does not seem to appear in the specification at all, and therefore there is no description of specifying a time period for presenting a resource.

Art Unit: 2137

9. Claims 1, 3, 4, 9, 10, and 26-29 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Specifically, there does not appear to be enabling disclosure of the newly added limitation in independent Claim 1 of "determining at least one quality of service required for presenting the at least one content resource to the user". A determination of failure to comply with the enablement requirement is made considering the undue experimentation factors set forth in MPEP § 2164.01(a). In the present application, the factors that appear to weigh most heavily are the amount of direction provided by the inventor (see MPEP § 2164.03) and the existence of working examples (see MPEP § 2164.02). Specifically, as to the amount of direction provided by the inventor, the only time the phrase "quality of service" appears in the specification is in the description of the "Class of Service element" at page 26, lines 8-9, of the present specification, where the quality of service is determined, but not further defined. Although it appears that "class of service" is synonymous with the claimed "quality of service", the only other references to that phrase in the specification appear at page 26, lines 1-4, where reference is made to the class of service element noted above as one of five service elements, and again at page 30, line 25, where the reference only indicates that class of service is a service element. There does not appear to be any particular definition provided by the present specification. Similarly, there do not appear to be any working examples given in relation to the claimed determination of a quality of

Art Unit: 2137

service. It is further noted that the term "quality of service" is generally quite broad, given the plain meaning of the words, and it does not appear that there is sufficient description to enable one of ordinary skill to determine exactly what scope the term "quality of service" is intended to encompass (see MPEP § 2164.08). Therefore, it appears that unreasonable experimentation would be required to determine exactly what factors contribute to the quality of service, given the lack of further definition (see MPEP § 2164.06). Therefore, upon consideration of the above factors as a whole, it appears that the claimed subject matter is not sufficiently enabled by the disclosure and undue experimentation would be required to make and/or use the invention.

10. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

11. Claims 4 and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 4 recites the limitation "the at least one content resource to which the user has subscribed". There is insufficient antecedent basis for this limitation in the claims, which renders the claim indefinite. Claim 9 is rejected due to its dependence on rejected Claim 4.

***Claim Rejections - 35 USC § 102***

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

13. Claims 1, 3, 10, and 26-29 are rejected under 35 U.S.C. 102(e) as being anticipated by Amin et al, US Patent 6714987.

In reference to Claim 1, Amin discloses a method including receiving a subscription request specifying a resource (column 23, lines 22-28), determining that the user is authorized to access the resource using the user's IP address (column 20, lines 39-51; column 21, lines 5-16), determining a quality of service required for presenting the resource (column 23, lines 28-33; column 22, lines 14-24), and providing the user a channel with the determined quality of service to satisfy the request (column 23, lines 28-33; column 22, lines 7-14).

In reference to Claims 3 and 29, Amin further discloses a configuration for determining whether the user is authorized using the user's IP address (column 21, lines 5-16).

In reference to Claim 10, Amin further discloses determining access based on external authorization information (column 19, lines 42-47).

Art Unit: 2137

In reference to Claim 26, Amin further discloses specifying a time to present the resource and providing the channel during the specified time (see column 21, lines 22-26).

In reference to Claim 27, Amin further discloses determining bandwidth required (column 22, lines 15-16).

In reference to Claim 28, Amin further discloses determining an amount of delay that can be tolerated (column 22, lines 16-17, where latency indicates amount of delay).

### ***Claim Rejections - 35 USC § 103***

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 4 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Amin in view of Rajan et al, US Patent 6725425.

In reference to Claim 4, Amin discloses everything as described above in reference to Claim 1. However, Amin does not explicitly disclose generating a portal web page. Rajan discloses a method including generating a portal web page reflecting a user's request (column 6, lines 41-58) and presenting the portal web page to the user (column 6, lines 24-28), where the web page includes at least one link to a resource to which the user has subscribed (column 6, lines 45-50). Therefore, it would have been

obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Amin to include the portal web page as described by Rajan, in order to provide effective summarization of data for data with an unpredictable structure in a fast and efficient manner (see Rajan, column 3, lines 17-22, and column 4, lines 42-45).

In reference to Claim 9, Amin and Rajan further disclose the portal web page allowing the user to make a subscription change (Rajan, column 7, lines 30-34).

### ***Conclusion***

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. Joshi et al, US Patent 7124203, discloses a system in which users can be authorized based on their IP addresses.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zachary A. Davis whose telephone number is (571) 272-3870. The examiner can normally be reached on weekdays 8:30-6:00, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on (571) 272-3865. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2137

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ZAD  
zad

*Matthew B. Smithers*  
MATTHEW SMITHERS  
PRIMARY EXAMINER  
*Art Unit 2137*